

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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December 15, 2023

Mr. Donald M. Deng  
Senior Vice President and Head of Litigation  
State Street  
One Congress Street  
Boston, MA 02114

Re: State Street Global Advisors

Dear Mr. Deng:

The Committee on the Judiciary is conducting oversight of the adequacy and enforcement of U.S. antitrust laws. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning the “[p]rotection of trade and commerce against unlawful restraints and monopolies” to inform potential legislative reforms, such as whether existing civil and criminal penalties and current antitrust law enforcement efforts are sufficient to deter anticompetitive collusion in the investment industry.<sup>1</sup>

Corporations are collectively adopting and imposing progressive environmental, social, and governance (ESG)-related goals, and State Street Global Advisors (State Street) appears to have entered into collusive agreements to “decarbonize” its assets under management and reduce emissions to net zero in ways that may violate U.S. antitrust law. To advance our oversight and inform potential legislation related to collusive ESG policies, the Committee must understand how and to what extent State Street may have colluded to promote ESG-related goals.

To this end, on July 6, 2023, we requested documents and communications related to how State Street advances ESG policies, in addition to other key information.<sup>2</sup> Committee staff then discussed the Committee’s requests with your outside counsel by telephone on July 12 and July 18, 2023.

On July 20, 2023, on the deadline to respond to the Committee’s requests, State Street produced just 503 documents.<sup>3</sup> Moreover, despite the Committee’s explicit requests for

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<sup>1</sup> See generally Rules of the House of Representatives R. X (2023).

<sup>2</sup> See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. to Yie-Hsin Hung (July 6, 2023).

<sup>3</sup> See Letter from Sean O’Malley to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (July 20, 2023).

communications, State Street's initial production did not include a meaningful volume of e-mail communications.

Thereafter, on August 4, 2023, Committee staff again discussed the Committee's requests and production priorities with your outside counsel by telephone. During this conversation, your outside counsel indicated that State Street was still collecting potentially responsive documents, had not started its review of responsive information, and was unlikely to make its first rolling supplemental production until after Labor Day 2023. Accordingly, on August 18, 2023, the Committee wrote to State Street to reiterate our outstanding requests for documents and information, emphasizing the deficiencies in State Street's production to date.<sup>4</sup> Committee staff then discussed the Committee's requests and production priorities with your outside counsel again by telephone on August 21, 2023.

In total, over the course of more than five months, State Street has produced just 6,998 documents—fewer than several other, much smaller entities have produced to the Committee in this investigation, despite State Street's massive size and influence as the world's fourth-largest asset manager, which suggests that the company may possess far more responsive material.<sup>5</sup> Moreover, in this investigation, State Street has failed to produce a substantial number of responsive e-mail communications to which State Street was a party that other parties have produced to the Committee.

On November 3 and November 7, 2023, Committee staff corresponded with your outside counsel to inquire when the Committee could expect State Street to complete its production of material responsive to the Committee's requests.<sup>6</sup> On each occasion, your outside counsel could not commit to a date by which State Street would substantially complete its production.<sup>7</sup>

On December 7, 2023, Committee staff again spoke with your outside counsel to discuss the deficiencies in State Street's response to the Committee's requests. During this conversation, your outside counsel suggested that State Street intended to substantially complete its production by mid-February, and Committee staff indicated that February 2024 was not an agreeable deadline given the needs and progress of the Committee's investigation. The following day, your outside counsel indicated to Committee staff that State Street "would be 'substantially complete' with respect to all productions by February 15."<sup>8</sup> Significantly, a February 2024 timeline for substantial completion would be some seven months after the Committee issued its initial requests to State Street.

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<sup>4</sup> See Letter from H. Comm. on the Judiciary Staff to Yie-Hsin Hung (Aug. 18, 2023).

<sup>5</sup> State Street, Annual Report 2022, <https://annualreport.statestreet.com/Y2022/default.aspx>.

<sup>6</sup> See E-mail from H. Comm. on the Judiciary Staff to James D. Barnette & William R. Nordwind (Nov. 3, 2023); E-mail from H. Comm. on the Judiciary Staff to James D. Barnette & William R. Nordwind (Nov. 7, 2023).

<sup>7</sup> See E-mail from James D. Barnette to H. Comm. on the Judiciary Staff (Nov. 3, 2023); E-mail from James D. Barnette to H. Comm. on the Judiciary Staff (Nov. 8, 2023).

<sup>8</sup> See E-mail from James D. Barnette to H. Comm. on the Judiciary Staff (Dec. 8, 2023).

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As discussed above, State Street's response without compulsory process has been inadequate. Accordingly, please find the enclosed subpoena.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member  
Ms. Yie-Hsin Hung, President and Chief Executive Officer, State Street Global Advisors  
Mr. James D. Barnette, Venable LLP

Enclosure